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SUBJECT: COMMERCIAL MEDIA IN ECUADOR WORRIED ABOUT THE PRESIDENT AND  
THE NEW CONSTITUTION

REFTEL: 08 QUITO 616

1.(SBU) SUMMARY: Since President Rafael Correa came to office in 2007 he has criticized the Ecuadorian commercial media as "incompetent," and complained that the majority of media outlets were protective of the business interests of their owners and not representative of the interests of Ecuadorian citizens. In 2008, the government took management and editorial control of two national TV stations owned by the Isaias family. Over the past year the government has launched three "public" media outlets that in theory report on the citizens' business, but in practice mainly report favorably on government actions. The new constitution includes a number of provisions that make commercial media outlets vulnerable to government pressure. Taken together, President Correa's actions and the provisions of the new constitution present a serious challenge to Ecuadorian media and freedom of the press. Nevertheless the main private media outlets continue to report on and criticize the Correa government, while the public remains largely on the sidelines of this battle over government restrictions on press freedom in Ecuador. End Summary

CORREA COMES OUT SWINGING

2.(SBU) In his public statements and weekly radio addresses, President Correa has been attacking media outlet owners and criticizing the press and journalists for most of his time in office. For example, he recently threatened to stop placing government advertising in the daily newspaper El Universo and in his 2009 state of the union address asked, "How is it possible that the largest newspaper in the country (El Universo) is owned by three persons with fake businesses in the Cayman Islands, and that one of Ecuador's TV stations (Teleamazonas) has reported seven years of losses?" Media analysts have also criticized the Government's use of a law allowing it to broadcast short programs on two or more private TV stations to interrupt the popular "Contacto Directo" morning news program on TV Ecuavisa. The Government spots defended the Housing Minister against criticisms by Contacto Directo anchor Carlos Vera, a constant critic of Correa. Many journalists criticized the action as a transparent attack on one journalist critical of the government.

3. (SBU) Over the past two years and three national elections, Correa has attacked established elites in all fields, including the media, to neutralize his potential critics. While his attacks have not stopped media outlets and individual journalists from criticizing him, they might have helped pave the way for a host of anti-media provisions in the constitution. Also, some newsroom editors admit they have softened their coverage of his administration. After Correa said this month in Cuba that, "I'm ready to fight the 80 percent of the Ecuadorian press that are private companies and defend private interests and those of political partisans," one top newspaper editor observed in his column, "(Correa) remains convinced that the private media is pernicious to society and must be limited."

ISAIAS CASE - ASSET RECOVERY OR MEDIA TAMPERING?

14. (SBU) In July 2008, the Ecuadorian government's Deposit Guaranty Agency (Agencia de Garantia de Depositos - AGD) began to seize companies and properties of brothers William and Roberto Isaias, a move which garnered wide public approval. The GOE declared that its objective was to sell the assets to pay back depositors who lost money when the Isaias-owned Filanbanco went bankrupt in 1998, leaving a \$661 million loss. The AGD seized two broadcast TV stations owned by the Isaias Group, Gamavision (since renamed GamaTV) and TC Television, whose viewership figures tie them for the number two spot among Ecuador's seven broadcast TV stations, and two small cable TV channels. These channels are now owned and run by AGD, which is supposedly determining their value with an eye to selling them by April 2009. After taking managerial and editorial control of the TV stations in November, the AGD-installed general managers claimed they would not tamper with the stations' editorial content, but eventually cancelled a number of programs which included political commentary that sometimes was critical of President Correa or his administration.

"PUBLIC" MEDIA OUTLETS - WORKING FOR THE PUBLIC, OR IN FAVOR OF THE GOVERNMENT?

15. (SBU) Since coming to office, the Correa government has created three government-funded media outlets: the El Telegrafo daily newspaper; radio station Radio Publica de Ecuador; and TV station Ecuador TV (ECTV). The editor of El Telegrafo said that the vision for the newspaper is to follow the BBC model, which is to say it will neither publish state propaganda nor function like a commercial media outlet earning a profit, and the president's communication secretary said the three government media outlets are "at the service of the people and the nation, but not the government."

However, the focus of reporting for these public media outlets appears to be on the government's activities and its political agenda. For instance, ECTV broadcasts all presidential announcements and his Saturday addresses to the nation and was the only media outlet to travel with the President on his January 2009 trip to Cuba. When Radio Ecuador was launched weeks before the vote to approve Ecuador's new constitution, its first interview was a one-hour talk with President Correa and much of its subsequent programming focused on the government's campaign in favor of the new constitution.

NEW CONSTITUTIONAL PROVISIONS - WILL COMMERCIAL MEDIA SURVIVE? WILL FREEDOM OF THE PRESS ENDURE?

16. (SBU) Ecuador's new constitution reflects President Correa's promise to implement "Socialism of the 21st Century" by creating a "system of social communication," among other provisions. It contains a host of articles aimed at regulating the commercial media, overseeing news content, and giving the government ownership control of commercial media outlets. The ultimate effect that the Constitution will have on the media and freedom of the press remains unclear, as many provisions have not yet been implemented through accompanying laws, but media observers point out that the government will have powerful tools at its disposal to make fundamental changes to how media companies do business and how they report the news. They fear the Correa administration, in keeping with its attacks on the commercial media over the past two years, will use these tools to restrict the free circulation of ideas and punish its critics in the commercial media. During the Constituent Assembly's debate on media provisions, assembly member Pedro de la Cruz of the government's Proud and Sovereign Fatherland (PAIS) movement, said, "The government should share in media company profits to redistribute wealth," while PAIS member Pilar Nunez said, "We are asking (media companies) for verified information that is not speculation."

Future Government Role in Commercial Media Ownership and Oversight

17. (SBU) Transitory Article 24 of the constitution stipulates that the executive branch will appoint a commission to conduct an audit of all TV and radio frequency licenses. Some wonder whether this commission will conduct a witch hunt against outlets that criticize the government and cancel their licenses. This would free up licenses to award to new "community media" stations since the constitution says the government will guarantee licenses for and

assist in the creation of community stations (Article 16). However, 85 percent of licenses are in private hands, only three percent belong to community stations, and some cities have no available frequencies. The presidential decree creating the commission specifically states that it is to identify any monopolies or oligopolies using the licenses. In his 2009 state of the union address, Correa said, "Alternative media outlets will have to be created."

18. (SBU) Article 312 states that financial businesses are prohibited from controlling or investing in media outlets, while Transitory Article 29 states that financial company stock holders must sell any current ownership positions in media outlets by October 2011. Recently Correa has claimed that TV station Teleamazonas, owned by banker Fidel Egas and home to news anchor Jorge Ortiz, a frequent Correa critic, is evading taxes. Egas' spokesman has said that he will abide by the constitution and divest from Teleamazonas. In 2007 Ecuador had four large independent commercial TV stations. Today, two of those are owned by the government, and the third will have to be sold at a time when the country is facing an economic downturn and the constitution bars foreigners from owning a majority share of media outlets. This leads commentators to wonder if any Ecuadorian investors will come forward to purchase these three stations and continue their tradition of independent newscasts.

19. (SBU) Article 313 states that the government reserves the right to administer, regulate, control and manage strategic sectors, including the TV-radio spectrum. Article 315 states that the government will create public companies to manage strategic sectors, while Article 316 spells out that the government can allow mixed public-private companies to participate in strategic sectors, or in exceptional cases allow private-sector companies to do this. Article 408 states that non-renewable natural resources, including the TV-radio spectrum, are the inalienable property of the government and that the government will share in the benefits of using these resources in an amount not less than the companies that exploit them. Considering that commercial TV and radio stations receive licenses giving them the right to use the TV-radio spectrum in their business operations, these articles raise the possibility that the government will seek to manage TV and radio outlets and share in the earnings of their operations.

10. (SBU) Article 384 stipulates that the law will define the organization, functioning and forms of citizen participation in the "system of social communication," which will assure the rights of communication, information and freedom of expression, and strengthen citizen participation. The system will be composed of public institutions, and private, citizen and community actors who voluntarily join it, and the government will formulate a public communication policy. A published news story reports that Cuban communications professor Jose Ignacio Lopez Vigil helped put this article into the constitution in the last days of the constituent assembly. Analysts are unsure how the government will use this system to set communication policy and influence the news reporting of private media outlets.

Will the Government Control the News?

11. (SBU) Article 18 states that all citizens have the right to receive true and verified information without prior censorship. Article 19 states that the law will regulate the content of the news media's programming. Transitory Article 1 spells out that the National Legislative Assembly, within 360 days of the new constitution coming into force, will write a communications law. Legal experts predict that the communications law will define the form and function of the "system of social communication," and will empower the Council of Citizen Participation and Social Control to establish mechanisms to enforce the constitutional provisions governing the media and freedom of press described in Articles 16-20. In this case, the members of this council would have the ability to interpret the broad language of these articles (in particular Articles 18-19) and the authority to choose what enforcement actions to take against private media outlets that they determine violated those articles. Some media professionals have expressed worry that this council, which has been dubbed the "fifth branch of government," could abuse its authority by selectively bringing enforcement action against private media outlets thus leading to intimidation and/or censorship of the press.

¶12. (SBU) In the first example of how the government plans to use these articles to regulate the commercial media, on January 28 the National Radio and TV Council (CONARTEL) responded to complaints against programs broadcast by TV Ecuavisa and Teleamazonas by decreeing that TV and radio stations which use polls or opinion surveys in their broadcasts must "eliminate statements that attack a person's honor, dignity and good name." Referring to the language of Article 18, CONARTEL's decree states that stations must avoid making "statements about facts and cases that are untrue or unverified and cannot be subsequently verified by the citizens." In response, one columnist wrote that this is part of a well thought out plan by the government to limit free speech guided by the idea that citizen power must regulate the press.

¶13. (SBU) COMMENT: President Correa's two-year campaign of criticism against Ecuador's "mediocre" press corps and "so-called free press" has helped him discredit the media as an opposition force. With some justification, he has painted it as aligned with the country's political and business elite and therefore an obstacle to the change agenda of his citizen's revolution. While the private media has shown solidarity in defending themselves against the attacks and continues to report and comment critically on Correa and his government, some have admitted to a degree of self-censorship and most are wary of how the constitutional provisions described above could affect their newsrooms and businesses. They also wonder whether Correa's verbal attacks might escalate into concrete actions such as tax investigations, which have already begun in the case of Teleamazonas. With Correa's popularity rating around 70 percent two years into his term, they might be calculating that now is not the time to take him on. It appears the public is willing for the time being to allow Correa to continue attacking the media, at least while the existing commercial media outlets still function more or less independently. However, it remains to be seen how the public would react if the president's attacks and the constitutional changes lead to a situation like in Venezuela, where few independent media outlets remain, or if the system of social communication promised in the new constitution proves to be nothing more than a government-run press.

HODGES